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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,401	03/29/2001	Yobie Benjamin	FLEE-3149	3282
5409	7590	06/23/2005	EXAMINER	
ARLEN L. OLSEN SCHMEISER, OLSEN & WATTS 3 LEAR JET LANE SUITE 201 LATHAM, NY 12110			LUU, LE HIEN	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/681,401

Applicant(s)

BENJAMIN ET AL.

Examiner

Le H Luu

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-95 is/are pending in the application.
- 4a) Of the above claim(s) 39-95 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03/29/2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. Claims 1-38 are presented for examination.
2. Applicant's election with traverse of Group I, claims 1-38 in the reply filed on 06/08/2004 is acknowledged. The traversal is on the ground(s) that the subject matter of all claims 1-95 is sufficiently related that a thorough search for the subject matter of any one group of claims would encompass a search for the subject matter of the remaining claims. This is not found persuasive because these inventions have acquired a separate status in the art as shown by their different classification, and the search required for one Group is not required for the other Groups.

For the reasons above restriction for examination purposes as indicated is proper.

The requirement is still deemed proper and is therefore made FINAL.

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
4. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of

Art Unit: 2141

any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. Claims 12 and 27 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim 1 and 13 respectively. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

Art Unit: 2141

directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-38 are rejected under 35 U.S.C. § 102(e) as being anticipated by McCanne patent no. 6,785,704.

8. As to claims 1 and 12, McCanne teaches the invention as claimed, including system for distributed processing, comprising at least one Distributed Working Environment for Application Processing (DWEAP), wherein the at least one DWEAP is coupleable to an Internet Service Provider (ISP) (col. 9 line 41 – col. 10 line 36; col. 13 line 52 - col. 14 line 12), wherein the ISP is coupled to an Internet, wherein a main server is coupled to the Internet (col. 9 lines 41-60), wherein an application is coupled to the main server (col. 9 line 42- col. 10 line 8), and wherein each said DWEAP has an application cache for caching a runnable module (RUM) of the application (col. 25 lines 1-56).

9. As to claim 2, McCanne teaches a database is coupled to the main server, wherein a database cache is coupled to at least one of said DWEAPs for caching a portion of the database, and wherein the portion of the database is required for execution of the application (col. 9 line 42 – col. 10 line 8; col. 15 line 32 – col. 16 line 33; col. 25 lines 1-56; col. 25 line 1 – col. 27 line 25).

10. As to claim 3, McCanne teaches the at least one DWEAP includes a first DWEAP and a second DWEAP, wherein the application cache of the first includes a first

Art Unit: 2141

RUM of the application, wherein the application cache of the second DWEAP includes a second RUM of the application, and wherein execution of the application includes execution of the first RUM on the first DWEAP and execution of the second RUM on the second DWEAP (col. 15 line 32 – col. 16 line 33; col. 25 line 1 – col. 27 line 25).

11. As to claim 4, McCanne teaches a database coupled to the main server, wherein a first portion of the database is cached on the first DWEAP, wherein a second portion of the database is cached on the second DWEAP, wherein execution of the first RUM includes utilization of the first portion of the database, and wherein execution of the second RUM includes utilization the second portion of the database (col. 15 line 32 – col. 16 line 33; col. 25 line 1 – col. 27 line 25).

12. As to claims 5-9, McCanne teaches a client coupled to a first of the at least one DWEAP; the application is executable such that a portion of the application is runnable closer or near to the client; the portion of the application is the entire application (col. 25 line 1 – col. 27 line 25).

13. As to claims 10-11, McCanne teaches the application is executable such that a first portion of the application is runnable closer to the client and a second portion of the application is runnable on the main server; and the application is executable such that a portion of the application is runnable closer to the client with a lower latency for execution of the application than if the entire application were run on the main server (col. 25 line 1 – col. 27 line 25).

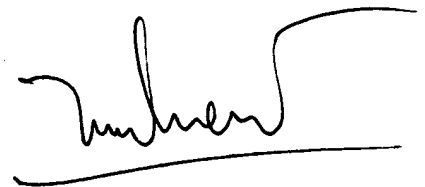
Art Unit: 2141

14. Claims 13-38 have similar limitations as claims 1-12; therefore, they are rejected under the same rationale.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H Luu whose telephone number is 571-272-3884. The examiner can normally be reached on 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Le Hien Luu', is written over a horizontal line.

LE HIEN LUU
PRIMARY EXAMINER

June 20, 2005